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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,052	12/19/2000	Bruce Perlmutter	10360-079001/13361HUUS01U	4810
34645	7590	11/01/2006	EXAMINER	
JOHN C. GORECKI, ESQ. P.O BOX 553 CARLISLE, MA 01741			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2616	
DATE MAILED: 11/01/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/740,052

Applicant(s)

PERLMUTTER ET AL.

Examiner

Duc T. Duong

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is in response to the brief on appeal filed November 12, 2004.
2. Applicant's arguments, see pages 11-13, filed November 12, 2004, with respect to the rejection(s) of claim(s) 1, 3-10, and 12-18 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Shah et al (US Patent 6,678,835 B1).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-10, and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (U.S. Patent 5,953,338) in view of Shah et al (US Patent 6,678,835 B1).

Regarding to claims 1 and 10, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (col. 7 lines 20-38).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Shah discloses a data communication system comprising a VPN policy server 122 configured for authentication, encryption, and compression of packets (Fig. 1-2 col. 6 lines 13-32).

Thus, it would have been obvious to a person of ordinary skill in the art to employ the policy server 122 with VPN processing as taught by Shah in Ma's server 160. The motivation to do so would have been to enhance the Ma's server functionality by providing authentication, encryption, and compression to packets so that a higher level of security and quality of services can be achieve.

Regarding to claims 3 and 12, Ma discloses all the limitation with respect to claims 1 and 10 including the server is directly connected to other links 302 having larger bandwidth than the available bandwidth of the remote links 310-316 (Fig. 3 col. 9 lines 1-13).

Regarding to claims 4 and 13, Ma discloses the packets belonging to the application group (virtual path) share a pre-defined configuration (quality of service), and see col. 10 line 67 and col. 11 lines 1-2.

Regarding to claims 5 and 14, Ma discloses all the limitation with respect to claims 1 and 10 including the packets belonging to the application group contend equally for the portion of the bandwidth (Fig. 6 col. 11 lines 60-63).

Regarding to claims 6 and 15, Ma discloses the meter manages flow rate of the packets going through the server in either direction (Fig.1B col. 6 lines 5-19).

Regarding to claims 7 and 16, Ma discloses the meter rejects the packets if the flow rate exceeds the assigned portion of the bandwidth (col. 8 lines 1-12).

Regarding to claims 8 and 17, Ma discloses all the limitation with respect to claims 1 and 10 including a user interface (client) that allows a user to specify the bandwidth of the link (Fig. 6 col. 9 lines 25-32).

Regarding to claims 9 and 18, Ma discloses all the limitation with respect to claims 1 and 10 including a user interface (client) that allows a user to specify the assigned portion of the bandwidth (Fig. 6 col. 11 lines 66-67 and col. 8 lines 1-18).

### ***Response to Arguments***

5. Applicant's arguments filed November 12, 2004 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, such motivation to combine Shah's VPN policy server into Ma's server is suggested in col. 6 lines 33-42.

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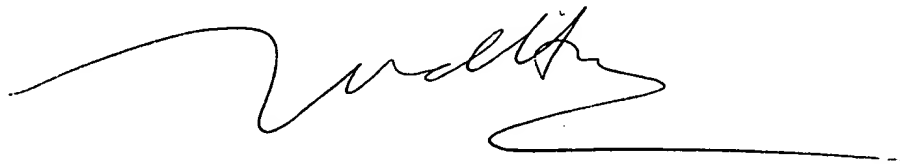
**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD  
DD



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